

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

KIMLING ATHERLEY,

Plaintiff,

-against-

NEW YORK CITY DEPARTMENT OF  
EDUCATION and COLIN CALDWELL,  
Reassigned Teacher Supervisor,

Defendants.

23-CV-383(JGLC)

**ORDER OF DISMISSAL**

JESSICA G. L. CLARKE, United States District Judge:

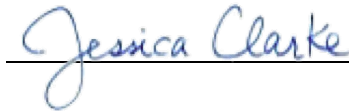
Plaintiff Atherly filed this action on January 15, 2023. On August 30, 2023, Defendants moved to dismiss. ECF No. 29. On March 29, 2024, the Court granted Plaintiff leave to amend her Complaint by May 1, 2024. ECF No. 41. The deadline to amend was extended twice, and Plaintiff filed an Amended Complaint on August 15, 2024. ECF Nos. 44, 45, 46. Plaintiff's Amended Complaint stated that the facts of the case were laid out in an attached addendum, however no such addendum was attached. ECF No. 46. The Court ordered Plaintiff to file the addendum to her Amended Complaint by September 16, 2024. ECF No. 47. Plaintiff failed to do so, and the Court extended the deadline to November 8, 2024. EC No. 49. The Court also warned Plaintiff that if she failed to file the addendum to her Amended Complaint, the Court would dismiss the case for failure to prosecute. As of today's date, Plaintiff has not filed the addendum to her Amended Complaint, nor has she otherwise indicated that she intends to pursue this action.

Rule 41(b) of the Federal Rules of Civil Procedure provides that a district court may dismiss an action if "the plaintiff fails to prosecute or otherwise comply with [the] rules or a court order." Fed. R. Civ. P. 41(b); *see also Baptiste v. Sommers*, 768 F.3d 212, 216 (2d Cir.

2014). Under Rule 41(b), a district court may dismiss an action *sua sponte* for failure to prosecute after notifying the plaintiff. *LeSane v. Hall's Sec. Analyst, Inc.*, 239 F.3d 206, 209 (2d Cir. 2001). Because the Court has not received any response from Plaintiff, including any indication that he intends to pursue this case, the instant action is dismissed without prejudice pursuant to Federal Rule of Civil Procedure 41(b). The Clerk of Court is respectfully directed to terminate all pending motions and close the case.

Dated: January 14, 2025  
New York, New York

SO ORDERED.

A handwritten signature in blue ink that reads "Jessica Clarke". The signature is written in a cursive, flowing style. Below the signature is a solid black horizontal line.

JESSICA G. L. CLARKE  
United States District Judge